

QUESTIONS TO ASK ABOUT H.B. 4159

Re: Differentiation between federal- and state-funded adoption assistance

1. Does this bill make DHS compliant with the recent order from the U.S. DHHS to specifically differentiate between state and federal requirements in all policies and legislation? (No. ☹)

Re: eligibility requirements

1. Does this bill order DHS to provide Title IV-E adoption assistance for children under age 3, if the child is otherwise eligible because of handicapping conditions or ethnic minority status? (No. ☹)
2. Does the bill force DHS to stop the practice of "accidentally" failing to disclose Title IV-E eligibility--of handicapped, ethnic minority, or older Children--to prospective adoptive parents--especially prospective parents with no previous adoption experience? (No. ☹)
3. Does the bill force DHS to stop the practice of changing adoption assistance rates--after parents sign contracts agreeing to higher rates--before finalization, and then refusing to "fix" the contract? (No. ☹)
4. Does the bill stop DHS from the current practice of refusing to provide Title IV-E adoption assistance from eligible children, by promising to substitute "medical" funds to help the family? (No. ☹ This practice violates the ADA and the Rehab. Act, which prohibit substitution of lesser funds and services by a federally-funded state agency for "better" federal funds for which the child is eligible.).
5. Does the bill specifically state that there is no requirement for a child's stay in foster care in order to be eligible for Title IV-E adoption assistance? (No. ☹ U.S. DHHS ordered DHS to end this practice years ago. DHS promised to stop, but continues the practice of requiring a 4-month stay in foster care to be eligible for Title IV-E adoption assistance.
6. Does this bill force DHS to disclose all Title IV-E rights to ALL prospective adoptive parents, because the adopted child might later be found eligible? (No. ☹)

7. Does this bill force DHS to drop all additional eligibility requirements which go beyond federal requirements, as ordered by the U.S. DHHS? (No. ☹)

Re: Timeframes for determinations

1. Does the bill specifically state that in post-finalization cases where any of the bases listed in federal regulations (as specified in the "Child Welfare Policy Manual" section 8.4G) has been met, DHS must provide Title IV-E adoption assistance to an eligible child if requested, even after adoption finalization, including full rights to negotiate the adoption assistance rate based on a child's current needs, negotiation of "other funds and services", and Medicaid? (No. ☹)

Re: Duration, extension, and termination of adoption assistance

1. Does this bill specifically order DHS to pay Title IV-E adoption assistance to eligible children without interruption, except for the specific bases listed in Title IV-E? (Current policy adds an "open door" for DHS to refuse to pay funds, AND ignores specific standards listed in Title IV-E. (No. ☹)
2. Does this bill specifically state that Title IV-E adoption assistance must be paid up to age 18, and that it must be stopped if the child marries, dies, joins the military, becomes an emancipated minor, or if the adoption is terminated? (No. ☹)
3. Does this bill specifically state that in post-adoption situations as listed in the "Child Welfare Policy Manual", section 8.4g, parents may request to re-negotiate the rate based on the needs of the child and the circumstances of the adopting family? (No. ☹) DHS has received documents from U.S. DHHS ordering them to do so, but openly refuses to comply.
4. Does this bill require of DHS that adoption assistance extensions--after age 18--be provided equally for all children, whether in public or private schools, or home-schooled? (No. ☹) DHS policy as listed on their website has extra hoops for home-schooled children to jump

through. These requirements go far beyond State home-schooling regulations.)

5. Does this bill force DHS to fully re-pay wrongfully-withheld Title IV-E adoption assistance funds to families, if the basis for withholding the funds is not one of the several specific ones listed in Title IV-E? (No. ☹ DHS has admitted to taking approximately ONE MILLION dollars per year from families, if a child is out of the home for a period of time. That specific reason is not listed in Title IV-E, and thus is prohibited.)

Re: Rate-setting and income testing

1. Does this bill specifically order DHS to negotiate adoption assistance rates with prospective adoptive parents, based on the needs of the child and the circumstances of the adoptive parents? (No. ☹)
2. Does this bill force DHS to disclose the entire rate schedule to prospective adoptive parents, that such rates are to be based on the child's needs, and that no amount of money available in the rate schedule in foster care may be withheld from the amount of money available for adoption assistance? (No. ☹)
3. Does this bill force DHS to disclose--before placement-- that Title IV-E adoption assistance rates can be later re-negotiated, if the child's needs or the circumstances of the adoptive family change? (No. ☹)
4. Does this bill force DHS to provide actual copies of all available medical records--not DHS summaries--and actual documented ethnicity of the child to prospective adoptive parents, because a child under age 3 may be eligible for Title IV-E adoption assistance on either of those bases alone, and for higher rates based on handicapping conditions? (No. ☹ DHS workers have acknowledged intentional non-disclosure of known impairments, in hearings. (No. ☹)

Re: Contents of agreements

1. Does this bill force DHS to use a Title IV-E-compliant contract form for

Title IV-E adoption agreements? (No. ☹)

2. Does this bill force DHS to remove illegal statements from the contract form, which are later used to illegally violate the contracts and stop payment? (No. ☹)
3. Does this bill stop DHS from the current practice of lowering adoption assistance rates on contracts after the parents sign the forms, placing the child in the home, then disclosing the change in the form; then having in their written policy the refusal to make changes in the adoption assistance rate after the placement of the child. (No. ☹ Making a change in the contracted rate after one party has signed it, without that party's knowledge, is illegal.)

Re: Administrative hearing rights

1. Does this bill order DHS to provide an administrative hearing within a certain period of time after the first request for Title IV-E adoption assistance and a hearing is made? (No. ☹)
2. Does this bill order DHS to provide any response at all to an adoptive parent's request for adoption assistance? (No. ☹) DHS routinely ignores these requests.
3. Does this bill force Administrative Law Judges ("ALJ"s) to comply with federal Title IV-E regulations? (No. ☹) (ALJs have openly stated in hearings that they do not have to comply with Title IV-E, and one ALJ admitted after a hearing that all ALJs have been ordered to refuse ALL post-adoption requests for Title IV-E adoption assistance, regardless of the evidence.)

The U.S. DHHS told DHS in 2003 to "expect" to be sued, for failure to provide Title IV-E adoption assistance to eligible children.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Log 28130

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
1250 Maryland Avenue, S.W.
Washington, D.C. 20024

JAN 16 2008

JAN 22 2008

Ismael Ahmed, Director
Michigan Department of Human Services
235 South Grand Avenue
P. O. Box 30037
Lansing, Michigan 48909

Dear Director Ahmed:

During 2006 and 2007, several major Federal statutes were enacted that have an impact on child welfare programs and services funded by title IV-E of the Social Security Act. In response, the Administration for Children and Families (ACF) issued Program Instructions ACYF-CB-PI-07-02 and ACYF-PI-07-04, highlighting required changes to a State's title IV-E State Plan. To be eligible to receive Federal financial participation (FFP) for the costs associated with title IV-E provisions, a State must have a State Plan approved by the Secretary that meets the requirements of 45 CFR 1355, 1356 and Sections 471, 472, 473 and 475 of the Social Security Act.

We have completed our review of Michigan's title IV-E State Plan for adoption assistance (Section 3) which was submitted timely on May 25, 2007 as part of its overall title IV-E State Plan. In conjunction with this review, we examined Michigan's Adoption Assistance Policy at CFA 740 through 744 and CFA 750 through 797 and Statutes at MCL 400.115. Based on this review, we determined that several of the State's policies or statutes either do not address, or appear to be in conflict with, Federal requirements. Consequently, we are unable to approve Michigan's State Plan for Adoption Assistance.

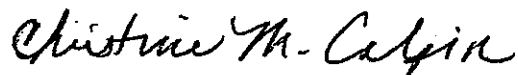
During our review, we noted discrepancies among different sections of the State's policies and statutes which appear to contradict each other and which do not, taken together, give a clear depiction of the State's program regarding adoption assistance. Therefore, the State will need to analyze its policies and statutes comprehensively to ensure consistency within the overall programmatic structure of its adoption assistance program and, then within that framework, clearly delineate those provisions that are supported through title IV-E. Among the areas we identified as needing clarification are provisions relating to eligibility requirements; timeframes for determinations; duration, extension and termination of adoption assistance; rate setting and income testing; content of agreements; and administrative hearing rights. For your consideration we have enclosed a synopsis of the areas in question, regulatory citations and provided a few examples to illustrate our findings.

In order to remain eligible for FFP and in accordance with Federal requirements, Michigan's State Plan must comply with Federal statutory and regulatory provisions. Accordingly, please review the enclosed document and within 30 days from receipt of this letter tender information to the Children's Bureau (CB), ACF, that would negate any of the areas of non-conformity that have been cited.

Federal regulations at 45 CFR 1355.32(d)(4) delineate the mechanism that has been instituted to address title IV-B or title IV-E compliance issues. It authorizes CB, ACF, to require the State to enter into a program improvement plan (PIP) that may result in a penalty if the State remains out of compliance with the State Plan provisions under scrutiny (refer to the enclosed synopsis). Should Michigan be unable to resolve concerns highlighted in the synopsis within 30 days of receipt of this letter, the State will be required to develop a PIP along with specific action steps and timeframes to make the necessary modifications. If this becomes necessary, our office will work with you on its development.

If you have questions about our findings and wish to arrange a conference call to discuss the matter further, or if you have questions about the PIP process or would like to request assistance in development of the PIP, please contact Barbara Putyra, Children and Families Program Specialist, in our Regional V Office, at 312-353-1786 or Barbara.putyra@acf.hhs.gov.

Sincerely,



Christine M. Calpin
Acting Associate Commissioner
Children's Bureau

Enclosure

cc:

Kathryne O'Grady, Deputy Director; Michigan DHS; Lansing, MI
James Hennessey, Director, Children's Services; Michigan DHS; Lansing, MI
Gail Collins, Director; CB, Division of Program Implementation; Washington, DC
Carolyn Wilson-Hurey, Regional Program Manager; CB, Region V; Chicago, IL
Barbara Putyra, Children and Families Program Specialist, CB, Region V; Chicago, IL

Title IV-E Experts

These three experts have done extensive research on Title IV-E, have testified in many hearings, and/ or have authored or co-authored books on the subject of Title IV-E.

Dr. Timothy O'Hanlon, PhD.
1371 Virginia Ave.
Columbus, Ohio 43212
(614) 299-0177

Ms. Rita Laws
P.O. Box 25
Harrah, OK. 73045

Mr. Joshua Kroll
c/o North American Council on Adoptable Children
970 Raymond Avenue, Suite 106
St. Paul, MN. 55114
(800) 470-6665